HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.8212 of 2007

Date: 10.08.2007

Between :

Smt S.Gunnnamma and another.

.....Petitioners

And

A.P.State Co-operative Tribunal and others.

.....Respondents.

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WRIT PETITION No.8212 of 2007

ORDER :

The first petitioner obtained a loan of Rs.1,00,000/- from the 5th respondent in the year 1999. It is stated that a sum of Rs.80,000/- was paid at various points of time. The 5th respondent initiated proceedings before the 2nd respondent in A.R.C.No.63 of 2001 for recovery of the amount. An award, dated 26.11.2001, was passed holding that the first petitioner is liable to pay a sum of Rs.2,71,318/-. Aggrieved thereby, the petitioners preferred an appeal before the A.P. Co-operative Tribunal, Hyderabad, first respondent herein. The appeal was initially returned on 10.02.2004, with nine objections. It was re-presented thereafter. However, on finding that objection Nos.4 and 9 were not complied with, the Tribunal rejected the appeal, through its order, dated 05.08.2004. The petitioners re-presented the matter thereafter, with an application to condone the delay of 860 days. The Tribunal rejected the same through order, dated 13.02.2007.

Challenging the said order of rejection, the

petitioners filed W.P.No.6646 of 2007. This Court disposed of the writ petition on 03.04.2007 leaving it open to the petitioners to challenge the order of rejection itself, since it was impermissible to re-present the appeal, once it was rejected. This writ petition is filed assailing the order, dated 05.08.2004, through which the appeal of the petitioners was rejected at the S.R.stage.

It is contended that the counsel, whom the matter was entrusted, did not pursue the matter with the required amount of attention and that the rights of the petitioners cannot be defeated, on account of the same.

Heard the learned counsel for the petitioners and the learned Government Pleader for Co-operation. Though the 5th respondent is served with notice, he has not chosen to enter appearance.

The petitioners availed the remedy of appeal against the recovery certificate issued by the second respondent. It is true that there was some delay and default on the part of the petitioners, in complying with the objections. The same resulted in rejection of the appeal at the S.R. stage. It is also stated that the petitioners have complied with all the objections. The right of the

petitioners to avail the statutory remedy cannot be defeated, on account of the lapses on the part of the counsel engaged by them in the Tribunal. This Court is of the view that the ends of justice would be met, if the order of rejection of the appeal is set aside, and the petitioners are given an opportunity, to avail the statutory remedy.

Hence, the writ petition is allowed and the order, dated 05.08.2004, in C.T.A(sr).No.1520 of 2004 is set aside. It shall be open to the petitioners to re-present the appeal, duly complying with the objections; and the Tribunal shall take the same into account, and deal with the matter in accordance with law.

10.08.2007

JSU